

AMENDED IN ASSEMBLY MARCH 21, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 209**

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**Introduced by Assembly Member Ammiano**

January 31, 2011

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An act to amend Section ~~21089~~ *21082.1* of the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 209, as amended, Ammiano. Environment: CEQA: lead agency: documents.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA authorizes a lead agency to charge and collect a reasonable fee from a person proposing a project that is subject to CEQA to recover the estimated costs incurred by the lead agency in conducting the environmental review. *CEQA requires a lead agency to submit a sufficient number of copies of the draft EIR, proposed negative declaration, or proposed mitigated negative declaration, and an electronic version, to the State Clearinghouse for review and comment by state agencies under specified circumstances.*

~~This bill would make technical, nonsubstantive changes in those provisions authorizing a lead agency to charge and collect a reasonable fee from a person proposing a project subject to CEQA delete the requirement to submit sufficient number of copies of the draft EIR, proposed negative declaration, or proposed mitigated negative declaration to the State Clearinghouse.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 21082.1 of the Public Resources Code is  
2     amended to read:

3     21082.1. (a) ~~Any~~—A draft environmental impact report,  
4     environmental impact report, negative declaration, or mitigated  
5     negative declaration prepared pursuant to the requirements of this  
6     division shall be prepared directly by, or under contract to, a public  
7     agency.

8     (b) This section is not intended to prohibit, and shall not be  
9     construed as prohibiting, any person from submitting information  
10    or other comments to the public agency responsible for preparing  
11    an environmental impact report, draft environmental impact report,  
12    negative declaration, or mitigated negative declaration. The  
13    information or other comments may be submitted in any format,  
14    shall be considered by the public agency, and may be included, in  
15    whole or in part, in ~~any~~ a report or declaration.

16    (c) The lead agency shall do all of the following:

17    (1) Independently review and analyze any report or declaration  
18    required by this division.

19    (2) Circulate draft documents that reflect its independent  
20    judgment.

21    (3) As part of the adoption of a negative declaration or a  
22    mitigated negative declaration, or certification of an environmental  
23    impact report, find that the report or declaration reflects the  
24    independent judgment of the lead agency.

25    (4) ~~Submit a sufficient number of copies of the draft of the~~  
26    environmental impact report, proposed negative declaration, or  
27    proposed mitigated negative declaration, ~~and a copy of the report~~  
28    ~~or declaration~~ in an electronic form, as required by the guidelines  
29    adopted pursuant to Section 21083, to the State Clearinghouse for

1 review and comment by state agencies, if any of the following  
2 apply:

3 (A) A state agency is any of the following:

4 (i) The lead agency.

5 (ii) A responsible agency.

6 (iii) A trustee agency.

7 (B) A state agency otherwise has jurisdiction by law with respect  
8 to the project.

9 (C) The proposed project is of sufficient statewide, regional, or  
10 areawide environmental significance as determined pursuant to  
11 the guidelines certified and adopted pursuant to Section 21083.

12 ~~SECTION 1. Section 21089 of the Public Resources Code is~~  
13 ~~amended to read:~~

14 ~~21089. (a) A lead agency may charge and collect a reasonable~~  
15 ~~fee from a person proposing a project subject to this division in~~  
16 ~~order to recover the estimated costs incurred by the lead agency~~  
17 ~~in preparing a negative declaration or an environmental impact~~  
18 ~~report for the project and for procedures necessary to comply with~~  
19 ~~this division on the project. Litigation expenses, costs, and fees~~  
20 ~~incurred in actions alleging noncompliance with this division under~~  
21 ~~Section 21167 are not recoverable under this section.~~

22 ~~(b) The Department of Fish and Game may charge and collect~~  
23 ~~filing fees, as provided in Section 711.4 of the Fish and Game~~  
24 ~~Code. Notwithstanding Section 21080.1, a finding required under~~  
25 ~~Section 21081, or a project approved under a certified regulatory~~  
26 ~~program authorized pursuant to Section 21080.5 is not operative,~~  
27 ~~vested, or final until the filing fees required pursuant to Section~~  
28 ~~711.4 of the Fish and Game Code are paid.~~

29 ~~(c) (1) (A) A public agency may charge and collect a~~  
30 ~~reasonable fee from members of the public for a copy of an~~  
31 ~~environmental document not to exceed the cost of reproducing the~~  
32 ~~environmental document.~~

33 ~~(B) A public agency may provide the environmental document~~  
34 ~~in an electronic format as prescribed pursuant to Section 6253.9~~  
35 ~~of the Government Code.~~

36 ~~(2) For purposes of this subdivision, "environmental document"~~  
37 ~~means an initial study, negative declaration, mitigated negative~~  
38 ~~declaration, draft and final environmental impact report, a~~  
39 ~~document prepared as a substitute for an environmental impact~~  
40 ~~report, negative declaration, or mitigated negative declaration~~

1 under a program certified pursuant to Section 21080.5, and a  
2 document prepared under the federal National Environmental  
3 Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.) and used by a  
4 state or local agency in the place of the initial study, negative  
5 declaration, mitigated negative declaration, or an environmental  
6 impact report.

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